

Message Text

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FOLLOWING REPEAT OTTAWA 754 ACTION SECSTATE INFO GENEVA
MAR 14

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SMTN AND ALSO USMISSION

E.O. 11652: N/A
TAGS: ETRD, GATT, CA
SUBJECT: GATT ARTICLE XIX CONSULTATIONS ON CANADIAN
FOOTWEAR RESTRICTIONS

REF: TPSC 77-103

1. BEGIN SUMMARY. US AND CANADIAN DELEGATIONS MET
FEBRUARY 13 IN OTTAWA TO INITIATE BILATERAL CONSULTATIONS
RE CANADIAN ARTICLE XIX ACTION ON FOOTWEAR. CANDEL
OUTLINED RATIONALE FOR ITS ACTION, CITING THREAT OF
SERIOUS INJURY TO DOMESTIC PRODUCERS FROM GROWING IMPORTS,
PARTICULARLY IN MEDIUM TO HIGH PRICE RANGES. CANDEL
EXPLAINED SOME MECHANICS OF QUOTA, ADMITTED THAT IT DID
NOT HAVE MANY PERTINENT STATISTICS AVAILABLE, AND
INDICATED THAT IT WOULD PASS ON ADDITIONAL DETAILS TO USG
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AS THEY BECAME AVAILABLE. CANDEL AGREED TO CONSIDER U.S.
REQUESTS FOR EX-OUTS ON PRODUCTS OF PRIMARY INTEREST, BUT
THE U.S. REQUEST FOR COMPENSATION MET STRONGER RESISTANCE,
LARGELY ON GROUNDS OF FAMILIAR GOC INTERPRETATION OF GATT
ARTICLE XIX. CANDEL MADE EXPLICIT REFERENCE TO PREVIOUS
ARTICLE XIX BILATERAL (WEARING APPAREL AND DOUBLE KNIT
FABRICS) AND WARNED THAT U.S. SHOULD NOT EXPECT EVENTUAL
COMPENSATION IN THIS CASE. CANDEL ACCEPTED U.S. REQUEST
LIST FOR STUDY, HOWEVER. BOTH SIDES AGREED TO HOLD NEXT
ROUND OF CONSULTATIONS IN WASHINGTON, TENTATIVELY ON

MARCH 14. END SUMMARY.

2. CANDEL (MCPHAIL, EXTAF) OPENED CONSULTATIONS WITH REVIEW OF CONDITIONS WHICH PROMPTED GOC TO INSTITUTE FOOTWEAR QUOTA EFFECTIVE DECEMBER 1, 1977. ACTION WAS TAKEN AS RESULT OF PERCEIVED THREAT OF INJURY TO DOMESTIC PRODUCERS (BASED IN PART ON INCREASED IMPORT PENETRATION OVER PAST FEW YEARS AS WELL AS MARKED DECLINE IN ORDERS FOR CANADIAN PRODUCTS). CANDEL NOTED THAT 1973 ANTI-DUMPING TRIBUNAL DID NOT FIND DOMESTIC PRODUCERS SUFFERING FROM UNDUE IMPORT COMPETITION AND DID NOT RECOMMEND RELIEF. IN 1977, HOWEVER, IMPORTS WERE CLEARLY HAVING A DISRUPTIVE EFFECT. SINCE GOC FAILED TO GET ORDERLY MARKETING ARRANGEMENTS, IT HAD NO CHOICE BUT TO INSTITUTE QUOTAS.

3. CANDEL ALSO INDICATED THERE HAD BEEN SUBSTANTIAL INCREASE IN IMPORTS OF MEDIUM AND HIGH-PRICED FOOTWEAR AND THAT 75 PERCENT OF CANADIAN PRODUCTION FALLS IN THESE PRICE RANGES. WHILE CAREFUL NOT TO SINGLE OUT THE UNITED STATES AS MAIN SOURCE OF PROBLEM, CANDEL DID SUGGEST THAT IMPORTS FROM UNITED STATES WERE PART OF GENERAL PROBLEM IN MEDIUM AND HIGH-PRICED FOOTWEAR SECTORS.

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4. CANDEL ALSO REVIEWED SOCIO-POLITICAL IMPLICATIONS OF DECLINING CANADIAN FOOTWEAR INDUSTRY, SUGGESTING THAT INDUSTRY IS LOCATED IN AREAS OF EXISTING HIGH UNEMPLOYMENT AND THAT WORKERS ARE SEMI-SKILLED OR UNSKILLED AND THUS LACK MOBILITY. CANDEL ALSO POINTED OUT THAT SIGNIFICANT RATIONALIZATION OF INDUSTRY HAS ALREADY OCCURRED AND THAT THREE-YEAR QUOTA IS DESIGNED TO ALLOW THE RATIONALIZATION PROCESS TO CONTINUE. CANDEL MAINTAINED THAT PRODUCTIVITY IS QUITE HIGH. IF AT THE END OF THREE YEARS, CANADIAN FOOTWEAR INDUSTRY IS UNABLE TO COMPETE WITH IMPORTS, THEN IT WOULD HAVE TO GO IT ALONE WITHOUT FURTHER GOVERNMENT TRADE RESTRICTIONS. CANDEL DID EMPHASIZE, HOWEVER, THAT THIS IS CURRENT GOC THINKING.

5. USDEL (STEWART, CO-CHAIRMAN) EXPRESSED APPRECIATION FOR GOC PRESENTATION AND RAISED SEVERAL QUESTIONS REGARDING GOC ACTION. USDEL ASKED, IN VIEW OF APPARENT EFFICIENCY OF CANADIAN INDUSTRY, WHY IMPORTS ARE CREATING SUCH A PROBLEM. CANDEL REPLIED THAT FOB PRICES ARE LOWER AND CONCEDED THAT THE CANADIAN WAGE RATES ARE PROBABLY HIGHER THAN THOSE OF COMPETITORS. MARKUP ON IMPORTS CAN BE AS MUCH AS FOUR TIMES FOB PRICE, WHICH CAN GIVE A MUCH GREATER RETURN THAN IF SHOES WERE PURCHASED DOMESTICALLY. CANDEL REJECTED U.S. SUGGESTION THAT QRS COULD WEAKEN NECESSARY WAGE-PRICE DISCIPLINE, CLAIMING THAT OTHER FACTORS WOULD HOLD CANADIAN PRICES IN CHECK.

6. WHEN QUERIED ABOUT GOC PLANS TO CORRECT INDUSTRY'S PROBLEMS WITHIN THREE YEARS, CANDEL REPLIED THAT PLANS SHOULD BE VIEWED IN BROAD CONTEXT OF CANADIAN MACRO- AND MICRO-ECONOMIC POLICIES. THE QUOTA WAS INSTITUTED TO GIVING IT TIME TO REACT TO PROGRAMS IN SECTORAL RATIONALIZATION AND IN DESIGN AND MARKETING ASSISTANCE. GENERAL THRUST OF GOC POLICY IS TO GET ECONOMY BACK ON TRACK AND INCREASE GOVERNMENT-INDUSTRY COOPERATION IN ALL INDUSTRIES. THE ONUS IS ON INDUSTRY TO COMPETE AFTER
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THREE YEARS.

7. SOME TECHNICAL POINTS ON NATURE AND OPERATION OF THE QUOTA SYSTEM WERE PROVIDED TO USDEL, BUT CONSIDERABLE CONFUSION REMAINS ABOUT THE SYSTEM'S ADMINISTRATION. (THE CANDEL ACKNOWLEDGED THAT GOC ADMINISTRATORS ARE LIKEWISE CONFUSED.) HOWEVER, CANDEL DID PROVIDE FOLLOWING DATA ON IMPORTS BY VOLUME IN MILLION PAIR: 1974: WORLD 31,342, U.S. 1,735; 1975: WORLD 27,993, U.S. 1,611; 1976: WORLD 39,527, U.S. 2,477. AVERAGE FOR 1974-76: WORLD 32,954, U.S. 1,941. AS EXPECTED, CANDEL COULD PROVIDE NO FURTHER STATISTICS AND INDICATED THAT GOC ITSELF HAD NO CLEAR IDEA OF HOW THE QUOTA CATEGORIES WERE DEFINED. HOWEVER, GOC WILL ATTEMPT TO FURNISH AGGREGATED STATISTICS BY VALUE AND FURTHER DETAILS OF THE SYSTEM'S OPERATION BEFORE NEXT SESSION OF CONSULTATIONS.

8. CANDEL ACKNOWLEDGED THAT USG APPEARED TO HAVE AN INITIAL NEGOTIATING RIGHT (INR) ON KEY TARIFF LINE IN QUESTION (61105-1) BUT WITHHELD COMPLETE AGREEMENT PENDING FURTHER INVESTIGATION. CANDEL DID POINT OUT THAT INR WAS NEGOTIATED AT 27.5 PERCENT DUTY, NOT AT THE CURRENT KENNEDY ROUND RATE OF 25 PERCENT, AND IMPLIED THAT THIS COULD HAVE SOME BEARING ON THE U.S. STANDING. USDEL REPLIED THAT 2.5 PERCENTAGE POINT DIFFERENCE IS NOT SIGNIFICANT.

9. AFTER REVIEWING RESULTS OF CONSULTATION'S FACT-FINDING PHASE, USDEL AGREED THAT CANADIAN FOOTWEAR INDUSTRY DOES HAVE PROBLEM BUT ADDED THAT RESTRICTIONS ON U.S. EXPORTS DO NOT CONTRIBUTE TO ITS SOLUTION. USDEL POINTED OUT THAT QUOTA REPRESENTED 16.6 PERCENT CUTBACK FROM 1976 GLOBAL IMPORT LEVEL. REDUCTION IN US TRADE MAY WELL BE
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EVEN GREATER, HOWEVER, AS IMPORTERS UNDER A QUOTA SYSTEM

ARE MORE LIKELY TO INCREASE LOWER-PRICED IMPORTS TO ENLARGE THEIR PROFIT MARGINS.

10. USDEL CLAIMED "SUBSTANTIAL SUPPLIER" STATUS UNDER ARTICLE XIX ON BASIS OF 1947 BINDING AT 27.5 OF CANADIAN TARIFF ITEM 61105-1, UNDER WHICH GREAT MAJORITY OF AFFECTED IMPORTS ENTER CANADA. EXPLAINING THAT U.S. GOAL IS RESTORATION OF BALANCE OF CONCESSIONS, USDEL POINTED OUT THAT REMOVAL OF QR WOULD BE SUREST MEANS OF ACCOMPLISHING THIS END. WHEN ASKED IF CANADA WOULD CONSIDER IMMEDIATE REMOVAL, CANDEL RESPONDED WITH IMMEDIATE AND EMPHATIC "NO".

11. USDEL THEN DISCUSSED POSSIBILITY OF EX-OUTS FROM QUOTA COVERAGE ON ITEMS OF MAJOR U.S. SUPPLIER INTEREST. USDEL NOTED THAT PRELIMINARY U.S. ANALYSIS OF THE PRODUCT CATEGORIES (ALTHOUGH HAMPERED BY INSUFFICIENT DATA) INDICATED THAT U.S. SUPPLIED AT LEAST 50 PERCENT OF CANADIAN IMPORTS OF SOME ITEMS (E.G., SOME COWBOY BOOT CATEGORIES) AND A SUBSTANTIAL SHARE OF OTHERS. TO EXTENT POSSIBLE, U.S. WOULD PREFER TO REDUCE IMBALANCE OF CONCESSIONS THROUGH EX-OUTS OF THESE ITEMS RATHER THAN COMPENSATION.

12. CANDEL EXPRESSED WILLINGNESS TO CONSIDER THIS APPROACH TO ELIMINATE INADVERTENT TRADE DAMAGE AND TO MINIMIZE THE IMPACT ON TRADING PARTNERS WITH WHOM CANADA HAS INTERNATIONAL COMMITMENTS. WHEN CANDEL THEN QUALIFIED THIS RESPONSE WITH CAVEAT THAT EX-OUT APPROACH SHOULD FORECLOSE ALL U.S. CLAIMS FOR COMPENSATION, USDEL RESPONDED THAT U.S. WOULD ALSO REQUEST COMPENSATION FOR REMAINING RESTRICTIONS SINCE EX-OUTS ALONE COULD NOT FULLY RESTORE BALANCE OF CONCESSIONS.

13. STATING WHAT WAS TERMED A "LONG-STANDING CANADIAN POSITION", CANDEL SAID THAT AN ARTICLE XIX ACTION CARRIES LIMITED OFFICIAL USE
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WITH IT NO AUTOMATIC REQUIREMENT FOR EITHER COMPENSATORY ACTION NOR RECOGNITION OF THE RIGHT OF THE AFFECTED PARTY TO TAKE RETALIATORY ACTION--ADDING:

A) CANADA HAS TAKEN ARTICLE XIX ACTION IN RESPONSE TO APPROPRIATE ECONOMIC FACTORS;

B) AN AGREEMENT TO CONSULT DOES NOT IMPLY ACCEPTANCE OF A CLAIM FOR COMPENSATION;

C) MTN SAFEGUARD DISCUSSIONS SHOULD NOT BE JEOPARDIZED BY BILATERAL ACTIONS;

D) DOMESTIC PRESSURES FOR "FAIRER TRADE" ARE STRONG IN

CANADA.

14. GOC ESTIMATES THAT THE EFFECT ON U.S. EXPORTS WILL NOT BE SUBSTANTIAL AS IT IS BASED ON U.S. HISTORICAL SHARE OF CANADIAN MARKET, BUT IN ANY CASE THE EFFECT IS NOW TOO UNCLEAR TO ENTERTAIN ANY REQUESTS FOR COMPENSATION. AS A RESULT OF THESE CONSIDERATIONS, U.S. SHOULD WITHHOLD ANY CLAIMS FOR COMPENSATION UNTIL SUCH TIME THAT THE QRS PRODUCE AN "UNTOWARD EFFECT" ON U.S. EXPORTS. IT WOULD BE A "SERIOUS MISTAKE" TO ASSUME THAT THE LONG-STANDING CANADIAN POSITION ON THIS ISSUE HAS CHANGED.

15. USDEL REPLIED THAT U.S. INTERPRETATION OF ARTICLE XIX IS ALSO UNCHANGED. RESTORATION OF BALANCE OF CONCESSIONS IS ESSENTIAL ELEMENT OF AGREEMENT AMONG INTERESTED PARTIES ENVISIONED BY ARTICLE XIX: 3(A). IF BALANCE CANNOT BE RESTORED BY COMBINATION OF EX-OUTS AND COMPENSATION, WITHDRAWAL OF SUBSTANTIALLY EQUIVALENT CONCESSIONS IS ONLY ALTERNATIVE MEANS, ALTHOUGH U.S. GREATLY PREFERS EX-OUTS LIMITED OFFICIAL USE
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AND COMPENSATION, WHICH ARE TRADE-CREATING. CANADIAN SUGGESTION THAT WE WAIT AND SEE IS UNACCEPTABLE SINCE U.S. HAS EVERY REASON TO EXPECT THAT ITS EXPORTS WILL BE ADVERSELY AFFECTED BY THE QRS, WHICH MANDATE A ROLL-BACK FROM 1976 AND 1977 IMPORT LEVELS. MTN DISCUSSIONS ARE NOT RELEVANT AS CPS ARE STILL OPERATING UNDER CURRENT ARTICLE XIX RULES. IN LIGHT OF CANDEL'S COMMENTS RE "FAIRER TRADE", USDEL NOTED IRONY IN CANADA'S RESTRICTING U.S. FOOTWEAR IMPORTS BUT REQUESTING GREATER-THAN-FORMULA CUTS ON U.S. FOOTWEAR TARIFFS IN MTN.

16. REPLYING TO U.S. INTERPRETATION OF ARTICLE XIX, CANDEL POINTED OUT THAT PARA. 3(A) ONLY PERMITS RETALIATION OF WHICH CPS DO NOT DISAPPROVE. CANDEL WOULD NOT RECOMMEND COMPENSATION TO CABINET AND WOULD RECOMMEND THAT ANY U.S. RETALIATORY ACTION BE SUBMITTED TO CPS FOR THEIR DISAPPROVAL. HOWEVER, WHEN U.S. DEL PRESENTED COMPENSATION REQUEST LIST (ANNEX I, TPSC 77-103), CANDEL ACCEPTED IT WITH PROMISE TO REVIEW WITHOUT PREJUDICE OR COMMITMENT BUT CLAIMED THAT LIST WAS UNEXPECTED. USDEL RESERVED RIGHT TO ADJUST LIST IN LIGHT OF IMPORT STATISTICS BY VALUE WHICH GOC WILL ATTEMPT TO SUPPLY. CANDEL ALSO PROMISED TO EXAMINE POSSIBILITY OF EX-OUTS.

17. BOTH DELS AGREED TO RESUME CONSULTATIONS IN WASHINGTON, TENTATIVELY ON MARCH 14 IF CANADIANS CAN FURNISH ADDITIONAL DATA BY THAT DATE.

18. COMMENT: MCPHAIL'S APPROACH TO CONSULTATION WAS TOUGH BUT THOROUGHLY PROFESSIONAL AND DEVOID OF THEATRICALS WHICH

MARKED CANADIAN PERFORMANCE IN LAST YEAR'S ARTICLE XIX
CONSULTATIONS ON TEXTILES. CONSULTATION THUS PROCEEDED IN
PRACTICAL, NON-POLEMICAL ATMOSPHERE WHICH SOULD AID
EVENTUAL AGREEMENT. CANDEL APPEARED ATTRACTED BY IDEA OF
EX-OUTS, BUT IT WILL PROBABLY BE MUCH MORE DIFFICULT TO
OVERCOME GOC RESISTANCE TO COMPENSATION, DESPITE TEXTILE
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SETTLEMENT. PROBLEM AGAIN APPEARS TO BE PRINCIPLE AND
PRECEDENT, RATHER THAN TRADE COVERAGE INVOLVED.
UNFORTUNATELY, CANDEL COULD OFFER LITTLE CONVMINCINO
AAZETETTTEEOOTWEAR INDUSTRY'S PROBLEMS WOULD BE SUB-
STANTIALY AMELIORATED IN THREE YEARS. THEREFORE, IN
SEEKING SETTLEMENT WE MUST RECKON WITH DEFINITE POSSIBILITY
THAT QRS WILL BE EXTENDED BEYOND 1980. LACK OF ADEQUATE
STATISTICS AND INFORMATION ON QUOTA SYSTEM'S OPERATION
WILL PROBABLY CONTINUE TO HAMPER CONSULTATIONS, BUT
PROBLEM APPARENTLY STEMS FROM SHEER BUREAUCRATIC
INEPTITUDE IN OFFICE OF SPECIAL IMPORT POLICY. ENDER.
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